TO: Members of the Executive Matters and Legal Affairs Committee of the
            Honolulu City Council

FROM: Natalie Iwasa, CPA
            Honolulu, HI 96825
            808-395-3233

REGULAR
MEETING: 1 p.m. Tuesday, November 15, 2011

SUBJECT: Bill 10, CD1 Honolulu Ethics Commission - **Support**

Aloha Councilmembers,

Thank you for allowing me to provide testimony on Bill 10, which would
bring ROH Chapter 3 Article 6 in alignment with the city charter. It is
important these two bodies of law agree with each other. During discussions
of this bill, however, a concern was raised regarding anonymity of persons
filing complaints.

In order for any whistleblower program to be effective, tips from sources close
to the situation must not only be allowed but encouraged. Best practice
guides regarding whistleblower programs note that one of the best ways to do
this is to offer anonymous submissions of tips, as fear of retaliation is often all
it takes for the person to decide not to report certain activities.

In recognition of the importance anonymous tips provide, the American
Institute of Certified Public Accountants has developed a checklist (attached)
for government audit committees to consider. Most, if not all, of the points
listed here apply to Honolulu and the work done by the ethics commission.

I encourage councilmembers to review the checklist and support Bill 10.

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Anonymous Submission of Suspected Wrongdoing (Whistleblowers) — Issues for Government Audit Committees to Consider

> **Purpose of This Tool.** A key defense against management override of internal controls is a process for anonymous submission of suspected wrongdoing (whistleblowing) that typically incorporates a telephone hotline. Respondents to a 2004 survey by the Association of Certified Fraud Examiners (ACFE) revealed that various forms of fraud are detected 40 percent of the time by tips, the leading method for detecting fraud.[1] Also, ACFE recommends opening the system to suppliers, customers, and others, which can increase the number of reports by approximately 50 percent.[2]
>
> This tool offers examples of questions to consider when designing an effective whistleblower hotline. It is not intended to be all-inclusive, and some items may not apply to your entity's operations.
>
> To learn more about whistleblower laws and rights, see the document at
> http://www.aicpa.org/antifraud/business_industry_govt/increasing_awareness/43.htm.

Whistleblower Issues for Audit Committees to Consider Tool	Yes	No	Not Sure	Comments
A. Design Effectiveness				
In assessing the design effectiveness of the hotline, a government audit committee should consider the following questions: 1. Does the hotline have a dedicated hotline number, fax number, web site, e-mail address, and regular mail or post office box address to expedite reports of suspected incidents of misconduct?	☐	☐	☐	

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[1] Association of Certified Fraud Examiners, *2004 Report to the Nation on Occupational Fraud and Abuse*, Austin, TX: ACFE, 2004, p 18.

[2] Association of Certified Fraud Examiners, *2004 Report to the Nation on Occupational Fraud and Abuse*, Austin, TX: ACFE, 2004, p. 19.

Whistleblower Issues for Audit Committees to Consider Tool	Yes	No	Not Sure	Comments
A. Design Effectiveness *(cont.)*				
2. Does the hotline demonstrate confidentiality, including showing how caller ID, e-mail tracking, and other technologies cannot be used to identify the whistleblower? Has the government considered the use of an independent hotline operator to enhance the perception of confidentiality in addition to any real improvement?	☐	☐	☐	
3. Does the hotline utilize trained interviewers to handle calls to the hotline rather than a voice mail system?	☐	☐	☐	
4. Is the hotline availability 24 hours a day, 365 days a year?	☐	☐	☐	
5. Does the hotline have multilingual capability to support hotline callers with different ethnic backgrounds or those that are calling from different countries?	☐	☐	☐	
6. Are callers provided with a unique identification number to enable them to call back later anonymously to receive feedback or follow-up questions from investigators?	☐	☐	☐	
7. Does the government have a case management system to log all calls and their follow-up, to facilitate management of the resolution process, testing by internal auditors, and oversight by the audit committee? For a sample tracking report that audit committees may use for this purpose, see the "Whistleblower Tracking Report" tool herein.	☐	☐	☐	
8. Has the government established protocols for the timely distribution of each type of complaint, regardless of the mechanism used to report the complaint? Are complaints of any kind involving senior management automatically and directly submitted to the audit committee without filtering by management or other government personnel?	☐	☐	☐	

Whistleblower Issues for Audit Committees to Consider Tool	Yes	No	Not Sure	Comments
A. Design Effectiveness *(cont.)*				
9. Does the government effectively distribute comprehensive educational materials and training programs among potential users to raise awareness of the hotline? Are these materials available in all relevant languages, given the potential user base and taking into consideration cultural differences that may require alternative approaches to achieve the desired goal?	☐	☐	☐	
10. Does the government support outreach to potential stakeholders other than employees?	☐	☐	☐	
11. Do the government's internal auditors periodically evaluate the design and operating effectiveness of the hotline? What were the internal auditors' conclusions regarding how the hotline reflects changes in the government's operations and in best practices; (2) whether the hotline is receiving satisfactory support from management, employees, and other participants; and, (3) whether protocols established for forwarding information to the government audit committee have been followed?	☐	☐	☐	
B. Educating Employees and Others About the Hotline				
In assessing whether management is actively promoting the existence and use of the hotline, a government audit committee should consider the following questions:				
1. Is confidentiality of communications made to the hotline stressed?	☐	☐	☐	
2. Is training provided to employees upon hiring and periodically thereafter?	☐	☐	☐	
3. For suppliers, is information incorporated into a vendor approval process, in purchase contracts, and on purchase orders?	☐	☐	☐	

Whistleblower Issues for Audit Committees to Consider Tool	Yes	No	Not Sure	Comments
B. Educating Employees and Others About the Hotline *(cont.)*				
4. Is the hotline number and other contact information provided on the government's Web site, intranet, newsletters, invoices, purchase orders, pay stubs, checks, and even vehicles?	☐	☐	☐	
C. Evaluating Communications Received				
In evaluating the communications received, a government audit committee should consider the following questions: 1. Is management taking all communications made to the hotline seriously? Are allegations appropriately investigated?	☐	☐	☐	
2. Does the government have a process for reporting back to the whistleblower on a timely basis, where possible, regarding the action taken?	☐	☐	☐	